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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3579 OF 2007

Kamal Panmal Jain .. Applicant

V/s

1. State of Maharashtra
2. Shri S.S. Patil .. Respondents

Mr.R.S. Kate for the applicant.

Mr.Dilip Bodke for respondent no.2.

Mr.K.V. Saste, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 12TH DECEMBER 2007

P.C. :

1. Heard the learned counsel for the applicant, the respondent no.2 and the learned A.P.P. for the State.

2. This application for anticipatory bail is filed by the applicant in connection with the crime registered at C.R. No.15/2005 with Karad Taluka Police Station for the alleged offences punishable under sections 403, 407, 409, 418 amd 420 of the I.P.C.

3. The case of the prosecution is that the applicant was acting as an agent for Hemant Chokhawala, who is accused no.1. The accused no.1 entered into a contract with the respondent no.2 for export of sugar manufactured by it. According to the respondent no.2, sugar was not exported and thereby the offence of cheating has been committed.

4. The respondent no.2 has already filed a suit bearing Special Civil Suit No.3 of 2003 for the alleged losses suffered by it under the said transaction. It appears that there are several disputes between the parties.

5. The contract was not entered into by the applicant but he only acted as an agent for the accused no.1. The transactions took place between March 2001 and May 2001. More than 6 years have passed. The contract was in writing. All the evidence is documentary in nature. In the circumstances, custodial investigation of the applicant at this belated stage does not appear to be necessary.

6. Taking an overall view of the matter, in my opinion, the applicant is entitled to anticipatory bail. Hence, I pass the following order.

ORDER

In the event of the arrest of the applicant in connection with the crime bearing C.R. No.15/2005 registered with the Karad Taluka Police Station, the applicant shall be released on bail on executing personal bond of Rs.50,000/- together with two sureties of Rs.25,000/- each subject to the following conditions:

(a) The applicant shall cooperate with the investigation and attend the police station as and when summoned by the police.

(b) The applicant shall not make any inducement nor give any threats to any of the prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(c) This order shall come to an end 7 days of the charge sheet being filed. Thereafter, the applicant shall be entitled to apply for regular bail before the regular court. If the applicant files an application for regular bail, the court shall not be influenced by any of the observations made in this order as they are only prima facie view of the matter.

(D.G. KARNIK, J.)